

U.S. Serial No. 09/847,656
Docket No.: 30003574-03 (1509-158)

REMARKS

Claim 22 has been amended to overcome the rejection based on 35 USC §112, second paragraph. In addition, the claims have been amended to assure infringement of the apparatus claims at the time the apparatus is sold, and prior to use, and to assure open ended coverage. In addition, an inadvertent typographical error in claim 27 has been corrected. Further, independent claims 1 and 21 have been amended to define Applicants' contribution to the art with greater particularity.

Applicants presume the first paragraph on page 4 of the Office Action meant to indicate claims 1, 2, 5-17, 21 and 23-31 were rejected as being unpatentable over Cupps (U.S. Patent 5,991,739) in view of Ogasawara (U.S. Patent 6,512,919). The Office Action does not mention Ogasawara on page 4. However, page 5 of the Office Action indicates Ogasawara is a secondary reference. Applicants will proceed on the foregoing assumption.

The Office Action alleges that the Cupps reference discloses the former requirement of claims 1 and 21 of:

...forwarding both the structured data part and the unstructured data concerning the description of the item of interest to the selected traders and availability enquiry.

Applicants have amended claims 1 and 21 to more positively distinguish over Cupps by changing this phrase to indicate the description is sent to multiple traders.

The Examiner's interpretation of Cupps is incorrect because Cupps discloses two trader instruction processes. When the customer contacts an on-line ordering machine, the ordering machine uses the location of the customer to dynamically

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generate a list of possible traders; see Figure 11 and column 9, line 63-column 10, line 6. The customer then selects a particular trader from the list generated by the on-line ordering machine; see column 10, lines 7-11. Thereafter, the customer places an order with the selected trader and the on-line order machine and then passes on the order to the selected customer.

In contrast, according to the method of claim 1 and the apparatus of claim 21, the customer sends an enquiry message to a service system. The service system forwards on elements of the message (the structured and unstructured data parts) to plural traders. Such an operation cannot be properly considered as an order because it is being sent to multiple traders for the traders to consider whether they are able to supply the requested item or items. The amendment to claims 1 and 21 emphasizes this point by referred to the availability of the message being sent to multiple traders.

The Ogasawara reference fails to cure the above-noted deficiencies in Cupps. Both Cupps and Ogasawara are solely concerned with placing an order with a specific trader. Applicants are unable to understand how a combination of Cupps and Ogasawara could possibly cause one of ordinary skill in the art to perform the method of claim 1 or arrive at the apparatus of claim 21.

In view of the foregoing amendments and remarks, reconsideration and allowance are respectfully requested and deemed in order.


Early issuance of a Notice of Allowance is courteously solicited.

The Examiner is invited to telephone the undersigned, Applicant's attorney of record, to facilitate advancement of the present application.

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To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 08-2025 and please credit any excess fees to such deposit account.

Respectfully submitted,
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